
UTAH LABOR COMMISSION

MIKE B. OSEGUERA,

Petitioner,

vs.

CONSOLIDATED FREIGHTWAYS,

Respondent.

**ORDER ON REQUESTS
FOR RECONSIDERATION**

Case No. 02-0827

Mike B. Oseguera and Consolidated Freightways (“Consolidated”) each ask the Utah Labor Commission to reconsider its prior decision regarding Mr. Oseguera’s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this matter pursuant to Utah Code Annotated §63-46b-13.

BACKGROUND AND ISSUES PRESENTED

In its previous decision, the Commission held Consolidated liable for the cost of medical care to treat Mr. Oseguera’s left hip. In asking the Commission to reconsider its decision, Consolidated argues that the evidence does not support the Commission’s finding that Mr. Oseguera’s work accident at Consolidated caused Mr. Oseguera’s need for medical treatment of his left hip. Specifically, Consolidated contends the Commission should have accepted medical opinions from the Commission’s medical panel and others, and disregarded the opinion of Dr. Horne. Consolidated also argues that even Dr. Horne’s opinion does not support the Commission’s determination that Consolidated is liable in this matter.

Mr. Oseguera’s motion for reconsideration does not disagree with the Commission’s decision, but asks the Commission to remand Mr. Oseguera’s claim for further proceedings to determine whether he is entitled to additional disability compensation.

DISCUSSION

The fundamental question in this matter is whether Mr. Oseguera’s work accident necessitated medical treatment, including surgery, on Mr. Oseguera’s left hip. If so, Consolidated is liable for the reasonable expense of such medical treatment. See §34A-2-418(1) of the Utah Workers’ Compensation Act.

In its previous decision, the Commission carefully considered the available medical evidence and was persuaded by Dr. Horne’s opinion. Admittedly, neither Dr. Horne’s opinion nor the other available medical opinions are conclusive. Nevertheless, the Commission has reviewed the medical

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evidence once again and remains convinced by Dr. Horne's opinion, expressed over the course of his treatment of Mr. Oseguera. A fair reading of Dr. Horne's opinion convinces the Commission that Mr. Oseguera's left hip problems did not require surgery until they were "lighted up" by the accident at Consolidated. Thereafter, the hip remained permanently painful, did not respond to conservative therapy, and ultimately required surgery. Under these circumstances, Consolidated is liable for the expense of such surgery.

Turning to Mr. Oseguera's request that his case be remanded for a determination of whether he is entitled to additional disability compensation, the Commission concludes that such a remand is appropriate. The Commission's decision only addresses Consolidated's liability for Mr. Oseguera's medical care, including surgery. Because the Commission has concluded that Consolidated is liable for the surgery, an additional question arises—to what extent is Mr. Oseguera entitled to disability compensation for inability to work before and after the surgery, or for any permanent impairment caused by the work accident?

On remand, Judge La Jeunesse will require Mr. Oseguera to provide a clear statement of the additional compensation he is claiming and will then allow Consolidated a reasonable opportunity to gather information relevant to such claim. Judge La Jeunesse will then provide an opportunity for hearing on Mr. Oseguera's disability claims and will then issue a decision awarding or denying compensation as appropriate.

ORDER

The Commission denies Consolidated's request for reconsideration. The Commission grants Mr. Oseguera's request for reconsideration and remands this matter to Judge La Jeunesse for further proceedings consistent with this decision. It is so ordered.

Dated this 21st day of May, 2007.

Sherrie Hayashi
Utah Labor Commissioner